

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

November 10, 2016

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) HA-3599 for a Single Family Residence and Related Improvements Located at Kolekole Gulch, Wailea, North Hilo, Hawai'i, TMK: (3) 2-9-003:003

**APPLICANT/
LANDOWNER:** Douglas Goehring

LOCATION: Kolekole Gulch, Wailea, South Hilo, Island of Hawai'i

TMK: (3) 2-9-003:003

AREA OF USE: ≈ .5-acre/21,780-ft²

SUBZONE: Resource

BACKGROUND:

On October 28, 2011, the Board of Land and Natural Resources approved your Conservation District Use Application HA-3599 for a single family residence and related improvements subject to thirty terms and conditions. Condition #8 states: *Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed (Exhibit 1 & 2).*

On October 13, 2014, the Department approved the request for a first time extension for the completion of the residence and related improvements with the deadline for completion by October 28, 2016.

TIME EXTENSION REQUEST:

On September 29, 2016, the Office of Conservation and Coastal Lands (OCCL) received a correspondence from the property owner requesting a 2nd time extension stating that that he has had challenges with contractors, the weather and the manufacturing of the building blocks. Due to these reasons, the project has been delayed. Mr. Goehring is requesting an additional three years for project completion (**Exhibit 3**).

Staff notes, significant construction has been completed as illustrated by the attachment to Exhibit 3. According to the applicant, footings and the concrete slab has been completed; some plumbing has been installed; the first story walls has been completed;

and landscaping has been started. The Hawai'i County Real Property Tax Office website reveals 3 separate permits have been issued for the project.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in the Hawai'i Administrative Rules (HAR), §13-5-43, that allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, §13-5-43(c), HAR, states: "Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant."

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating or completing work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the request. The Permittee has endeavored to obtain all permits and approvals prior to initiating the project and has made significant progress on the construction of the home. Approval of the time extension request shall hopefully provide the time needed to complete the residence.

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to complete the Single Family Residence and related improvements as identified in CDUA HA-3599 located at Kolekole Gulch, Wailea, North Hilo, Island of Hawaii, TMK: (3) 2-9-003:003 subject to the following conditions:

1. That condition #8 of CDUP OA-3599 is amended to provide that the Permittee has until October 28, 2019 to complete construction; and
2. That all other conditions imposed by the Board under CDUP OA-3599, as amended, shall remain in effect.

Respectfully submitted,



K. Tiger Mills, Staff Planner

Office of Conservation and Coastal Lands

Approved for submittal:



Suzanne D. Case, Chairperson

Board of Land and Natural Resources

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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2011 NOV 7 A 9:21
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

CDUP: HA-3599

REF:OCCL:TM

Douglas B. Goehring
817 Powdermill Road
Gatlinburg, TN 37738

OCT 31 2011

SUBJECT: Conservation District Use Permit (CDUP) HA-3599

Dear Mr. Goehring:

This is to inform you that on October 28, 2011, the Board of Land and Natural Resources approved your Conservation District Use Application HA-3599 for a Single Family Residence and related improvements as identified in CDUA HA-3599 located at Kolekole Gulch, Wailea, North Hilo, Island of Hawaii, TMK: (3) 2-9-003:003 subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) §11-60.1-33, Fugitive Dust; Chapter 11-46, Community Noise Control; and Chapter 11-62, Wastewater;
4. The single-family dwelling shall not be used for rental or any other commercial purposes;
5. All mitigation measures set forth in the application materials, and in the final environmental assessment for this project are hereby incorporated as conditions of the permit
6. The applicant shall provide documentation (i.e. book/page document number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;

EXHIBIT 2

7. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
8. Any work done on the land shall be initiated within one year of the approval of such use, and unless otherwise authorized be completed within three years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
9. The applicant will minimize visual impacts using appropriate house color and landscaping;
10. The applicant shall obtain all applicable permits from Hawaii County prior to construction. The applicant shall obtain a County of Hawaii Building and Grading Permit;
11. The applicant shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
12. Obstruction of public roads, trails, and pathways shall be minimized. If obstruction is unavoidable, the applicant shall provide roads, trails, or pathways acceptable to the department;
13. Except in case of public highways, access roads shall be limited to a maximum of two lanes;
14. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
15. Cleared areas shall be revegetated within thirty days unless otherwise provided for in a plan on file with and approved by the department;
16. Use of the area shall conform to the program of appropriate soil and water conservation district or plan approved by and on file with the Department, where applicable;
17. Artificial light from exterior lighting fixtures, including but not necessarily limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates or is directed across property boundaries, except as may be permitted pursuant to §205A-71, HRS;
18. The applicant/landowner shall execute a waiver and indemnity prior to submitting construction plans for approval that is satisfactory to the Department;
19. In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the

issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

20. During construction, activities shall be in accordance with an approved plan by the State Historic Preservation Division (SHPD) as applicable;
21. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (808-692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
22. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
23. Potable water supply and sanitation facilities shall have the approval of the appropriate agencies;
24. Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
25. The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
26. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the environment;
27. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawaii Administrative Rules (Title 13-5);
28. The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
29. Other terms and conditions as may be prescribed by the Chairperson; and
30. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

Should you have any questions on any of these conditions, contact Tiger Mills at (808) 587-0382.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:


Applicant's Signature

Date 11-3-11

c: Chairperson
HDLO
County of Hawaii
Department of Planning
Department of Parks and Recreation

EVH

Douglas B. Goehring

Pahoa, HI 96778

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OFFICE OF CONSERVATION
AND COASTAL LANDS

2016 SEP 29 A 9:29

September 23, 2016

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Attn: Kimberly K. Tiger Mills
P.O. Box 621
Honolulu, Hawaii 96809

Subject: Conservation District Use Permit (CDUP) HA-3599 – 2nd Time Extension Request.

Dear Department of Land and Natural Resources:

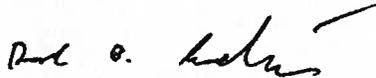
This letter serves as my submittal request for a 2nd "Time Extension" per (HAR §13-5-43) on TMK: (3) 2-9-003:003 for CDUP HA-3599. The following issues have caused major delays in construction: 1) Termination of three different contractors due to poor quality workmanship and dishonest practices; 2) difficult wet weather conditions delaying the setting of CMU block using cement; 3) Manufacture of CMU block (West Hawaii Concrete) has stopped production of block. CMU block now has to be shipped from Honolulu to Hilo causing time delays. For these reasons, we have not been able to complete the project within the extended two year time frame. We are requesting for an additional three years for project completion.

We are currently active in construction and the following has been completed since the 1st time extension:

- Footing and concrete slab poured and completed.
- Plumbing installed in slab
- ~3,000 CMU blocks have been set
- First story CMU walls of home are complete
- County permits are active
- Landscaping has been started

If you need further information or have any questions of any kind, please contact me at

Sincerely,



Douglas B. Goehring
Applicant and Property Owner

Attachment: Photo of property taken September 2, 2016.

EXHIBIT 3

